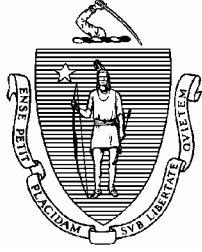


(Note in this space if petition is "By Request")



The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND FIVE

AN ACT To Protect the Rights of Persons Aggrieved

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 119A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out section 17, and inserting in place thereof the following section:-

Section 1. The department shall establish procedures for the prompt resolution of disputes concerning the enforcing of obligations, collection and disbursement of child support and shall prepare informational materials for distribution to obligors and obligees describing such procedures and, where applicable, such procedures shall be consistent with section six of chapter one hundred and nineteen A, and provisions of this section. Such procedures shall include maintenance of an adequately staffed unit the principal duties of which shall be to respond to inquiries, with a widely publicized telephone line, to receive written requests from obligors and obligees for administrative review or administrative hearing, at the election of the obligor, of the IV-D agency's actions in collecting and disbursing child support and to refer such requests to the appropriate unit within the department for resolution. Any obligor or the legal representative of such obligor, aggrieved by an action of the agency in enforcing, collecting or disbursing child support shall have a right to a hearing, after due notice, upon appeal to the division of the Board of Hearings in the manner and form prescribed by the division; provided, however, such appeal is received by the division within thirty days after official notice of the action taken by the division has been received by the obligor by certified mail, return receipt requested, or if no such notice is received in such manner by the obligor, within a reasonable time after discovery by the obligor of such action of the agency in enforcing, collecting or disbursing child support. Such hearing shall be conducted by the commissioner of the department of revenue or a referee designated by the commissioner within the board of hearings established under section nineteen. The commissioner or the designated referee is hereby empowered to subpoena witnesses, administer oaths, take testimony and secure the production of such books, papers, records and documents as may be relevant to such hearings. The decision of

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the commissioner, or of the designated referee, shall be the decision of the agency. Such appeals, hearings and decisions shall be subject to the provisions of section nineteen.

The division may make such additional investigation as it may deem necessary and shall make such decision as to the granting of relief as in its opinion is justified and in conformity with the provisions of this chapter. Obligor and obligees affected by such decisions of the division shall, upon request, be given reasonable notice and opportunity for a hearing as provided under this section. The provisions relating to the conduct of hearings and decisions thereon made, as provided in this section, shall be equally applicable in all cases wherein the agency acts upon its own.

The commissioner, or the referee designated by the commissioner, shall render and issue his or her decision within ninety days after the date of the filing of the appeal by the aggrieved applicant, or legal representative of an applicant. The commissioner, but not his or her designee, may for good cause shown, direct the director of the board of hearings to conduct a rehearing of the appeal. An order for such rehearing shall not be construed as indicating or implying any position by the commissioner on the merits of the appeal. The director shall send seven days' written notice to all parties, including the date, time and place of such rehearing, which shall be held at a location convenient to the person appealing, and after such rehearing the director may, not later than thirty days after the order for such rehearing, issue a superseding decision.

For purposes of this section, "enforcing" shall mean any conduct initiated by the department whose purpose or design is to collect money, directly or indirectly and includes without limitation, the levy of bank funds, intercept of tax refunds, placement of liens, adverse reporting of credit, and actions intended to interfere with any right, privilege or license conferred by the commonwealth or any government agency.

Section 19

There shall be within the department of revenue a board of hearings for the purpose of holding the hearings

referred to herein and rendering decisions. Said board shall be under the supervision of a director appointed by the commissioner and shall be independent of all other subdivisions and personnel of the department.

Any person aggrieved by the action of the department of revenue in enforcing, collecting or disbursing child support or the failure to approve or reject a request for administrative review within forty-five after receiving such request, or by coercive or otherwise conduct on the part of an employee of the department shall have a right to a hearing, after due notice, upon appeal to the commissioner.

A hearing held pursuant to this section shall be conducted by a referee designated by the commissioner at a location convenient to the person appealing and shall be conducted as an adjudicatory proceeding under chapter thirty-A, except that any appeal from such decision shall be to a probate court in the same manner as an appeal from administrative review. The director of the board of hearings shall be responsible for the fair and efficient operation of the board in conformity with state and federal laws and regulations and for the training of referees, scheduling of hearings and the compilation of decisions. Neither the director nor any other employee of the division shall review, interfere with, change or attempt to influence any hearing decision by a referee. A referee may subpoena witnesses, administer oaths, take testimony and secure the production of such books, papers, records and documents as may be relevant to such hearing. The person appealing shall have the opportunity to confront and cross-examine all adverse witnesses and to question or refute any testimony, evidence, materials or legal arguments. The referee shall base his or her decision solely on the testimony, evidence, materials and legal rules adduced at the hearing. The referee may reopen a hearing for the purpose of considering further testimony, evidence, materials or legal rules before rendering his or her decision and shall, if he or she reopens the hearing, send seven days' written notice to all parties of the reopening and the reasons therefor, including the date, time and place of the resumed hearing, which shall be held at a location convenient to the person appealing. The decision of the referee shall be the decision of the department.

A referee shall render and issue a decision within ninety days after the date of the filing of the aggrieved person's appeal, except that when an aggrieved person appeals the action previously taken by the department, the referee shall render a decision within forty-five days after the date of the filing of said appeal. The decision of the referee shall be subject to review in accordance with the provisions of Chapter 30A, except that such further appeal

shall be to the Probate and Family Court department.